



**MINUTES OF MEETING OF THE CITY
COUNCIL OF THE CITY OF HAYWARD**
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, May 21, 2002, 8:00 p.m.

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Henson.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez (8:19 p.m.) Hilson,
Rodriguez, Ward, Dowling, Henson
MAYOR Cooper
Absent: COUNCIL MEMBERS None

PRESENTATION: Hayward Youth Commission Hayward Community Service Scholarships

Mayor Cooper presented the scholarships to the four recipients for 2002. She noted that each is a high school senior who will graduate in June and continue at a university in the fall. Each senior has completed at least one hundred hours of community service in Hayward over a designated twelve-month period. She presented the following seniors their awards: Amina Abid of Tennyson High School, David Haddad of Hayward High School, and Hugnette Membreno of Mt. Eden High School. Not available to receive her award was Katie Hirstein of Moreau Catholic High School.

PROCLAMATION: May 19-25 as Emergency Medical Services Week in the City of Hayward

Fire Chief Larry Arfsten accepted the proclamation and reported that at least 70% of emergency calls are for EMS services. He announced that there will be a display at Southland Mall, Saturday, May 25th near Macy's. Members of the EMS team will be available. The display will begin at 10 a.m.

PUBLIC COMMENTS

Jim Drake discussed the parking problems along Foothill Boulevard. He suggested diagonal parking to be more "family friendly."

Jason Moreno commented on safety issues at City Hall and the problems of victimization in the workplace.

Nicholas Terry reported on his experience during the fire at City Hall. He commented on remarks made by public officials in regards to the recent fire.

Henry Guzman Villalobos commented on his efforts towards a multicultural center and international education. He commended the Council for its efforts in rebuilding the downtown area. He suggested more people get involved in City government to do something positive.

Council Member Henson said he attended the Arbor Day Celebration at Schafer Park Elementary School. He read the 'Schafer Park Promise' of the students who participated.

Council Member Hilson noted that he was in Sacramento when the fire occurred. He commented on the negative headlines by the newspaper and the City's image. He commended and thanked staff, as well as the workers and the businesses used to restore the building, for their efforts.

Council Member Jimenez commended the Hayward Fire Department for protecting the City Hall.

CONSENT

1. Approval of Minutes of the City Council Meeting of May 14, 2002

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of May 14, 2002

2. Maintenance District (MD) No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road and Ruus Lane - Preliminarily Approve the Engineer's Reports, Adopt a Resolution of Intention and Set July 9, 2002, as the Public Hearing Date

Staff report submitted by Development Review Engineer Gaber, dated May 21, 2002, was filed.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to approve the following:

Resolution 02-063, "Resolution Preliminarily Approving Engineer's Report, Declaring Intention to Levy Assessments for Fiscal Year 2002-2003, and setting July 9, 2002, as the Public Hearing Date Concerning Maintenance District No. 1 - Storm Drainage Pumping Station and Storm Drain Conduit - Pacheco Way, Stratford Road, and Ruus Lane (MD No. 1)"

3. Consolidated Landscaping and Lighting Assessment District 96-1, Zones 1-9 - Preliminarily Approve the Engineer's Report, Adopt a Resolution of Intention and Set July 9, 2002, as the Public Hearing Date

Staff report submitted by Development Review Engineer Gaber, dated May 21, 2002, was filed.



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It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to approve the following:

Resolution 02-064, "Resolution Preliminarily Approving Engineer's Report, Declaring Intention to Levy Assessments for Fiscal Year 2002-2003, and setting July 9, 2002, as the Public Hearing Date Concerning Consolidated Landscaping and Lighting District No. 96-1, Zones 1-9"

4. Final Tract Map 7306 - Olson-Hayward IV, LLC, a California Limited Liability Company (Subdivider) - Approve the Final Map and Authorize the City Manager to Execute a Subdivision Agreement

Staff report submitted by Assistant Planner Koonze, dated May 21, 2002, was filed.

It was moved by Council Member Ward, seconded by Council Member Jimenez, and unanimously carried to approve the following:

Resolution 02-065 "Resolution Approving the Final Map for Tract 7306 and Authorizing the City Manager to Execute a Subdivision Agreement"

Mayor Cooper then announced that the Legislative Business item would be heard first.

HEARINGS

5. Appeal of Planning Commission's Approval of Use Permit/Variance PL-2002-0025 - COMMPRE (Appellant), Hani Haddad (Applicant/Owner) - Request for New Off-Sale Alcoholic Beverage Outlet located less than 500 Feet from another Outlet - The Property is Located at 230 Jackson Street (State Route 92) in the Neighborhood Commercial (CN) District

Staff report submitted by Associate Planner Emura, dated May 21, 2002, was filed.

Planning Manager Anderly spoke of the uniqueness of this business, and how they cater to mainly ethnic clientele. She noted that the use permit limits the amount of sales, beer and wine only. There would be no signs at the windows advertising liquor, and would also require limited hours of operation. She noted that the appeal was made by COMMPRE, citing the over proliferation of alcohol beverage sales, and that there is no public convenience and necessity. She

showed the separation of sales located within the census tract, which is an Alcoholic Beverage Control stipulation.

Council Member Jimenez indicated that in his examination of the Crossroads Market, it reminded him of Trader Joe's and he then commented favorably.

Council Member Ward commented on the uniqueness of this facility and asked how the Council can be certain about no other business doing the same. He wondered whether, by default, Council might be modifying the ordinance and emphasized Council's need to maintain consistency.

Planning Manager Anderly responded that this does represent a unique situation.

City Attorney O'Toole explained that the law requires looking at each individual application. Staff determined that the location of the business separates it from others by the highway. There is really no other license closer than 500 feet on this side of Jackson. Staff believed that the variance is appropriate in this case.

Council Member Henson asked about the Police Department's opinion on this application. He was told that initially they did have reservations, but have since reviewed the business and have no objection to the use permit.

Mayor Cooper opened the public hearing at 9:09 p.m.

Yesenia Galvan said she is a member of the Youth Commission and the Youth Prevention Project, which strives to create a more positive environment for youth. She noted that she was representing the teens of Hayward. Yesenia said she had not been in the store. She also said there is no need to add another store to sell alcohol which is further temptation for teenagers.

Michael Terrado said he had been involved with the Hayward Police Department in stings. He continued that increasing alcohol sales is negative to youth.

Heather Feverhelm listed the various retail outlets within a mile that sell liquor and noted that she was opposed to this application since there are already too many markets that sell alcohol. She noted that this area already has a blighted look to it. She commented that Crossroads Market already has uniqueness in the food it sells.

Council Member Jimenez asked whether she was familiar with the liquor sales in the other stores in the area.

Marjorie Matthews spoke from her own neighborhood experience and the problems with alcohol in the neighborhoods. She spoke against the alcohol sale.

Council Member Ward asked whether the applicant was only asking for a beer/wine license, and if granted, could the applicant at a future date change to more alcohol. He was told that were the



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applicant to want to sell more liquor, he would be changing his use permit and would have to come back to the Council for approval.

Madeline Harrington, Moreau Catholic High School, said she is involved in a program called "YEL" which works with COMMPRE to discern alcohol and liquor signage within the City. She spoke against the liquor license approval. She also asked who would enforce the conditions.

Jason Moreno asked for an explanation in the consistency of issuing permits to some establishments and not to others. He indicated that the market has a wonderful array of international products.

Lore Warren spoke on behalf of the applicant and commended favorably on the quality of goods for sale. As others, she compared Crossroads to Trader Joe's and said it is a plus towards the German community. She then commented about Mr. Haddad's son who just received an award from the Youth Commission for public service.

Dennis Howlett said this market is a big complement to Jackson Avenue. He commented that issuing this permit would increase traffic in the area. He suggested both an ingress and egress to the shop be added. He wondered how much more traffic could be handled at the market with alcohol sales.

Darlene Hagen spoke against the liquor license approval as there are enough liquor stores in the area. Her main concern is with the business in the area and the children going into the store to purchase liquor.

Hung Duong, owner of Country Liquors, said this would impact his business and would be too competitive.

Lindley Feschel expounded on what a positive experience shopping at Crossroads has been. Hayward is about diversity. He noted that local establishments do not carry the foreign types of liquors that he desires. He was strongly supportive of this application and the owner.

Peter Bogdan said he comes all the way from El Cerrito to shop especially at Crossroads. He said it would be a pleasant addition if they had wine and beer from Germany and other countries. He commented about the hours of operation.

Carl Costa spoke favorably of Crossroads, its cleanliness and its product uniqueness. He said he purchases most of his products from Portugal. He said this store's uniqueness would give him the opportunity to stay home to buy what he needs.

Doug Sprague said he shops at Crossroads. He emphasized supporting and encouraging small business. He noted that youth rarely purchase unique foreign alcohol.

Linda Pratt, COMMPRE Program Director, said they are appealing because the opportunity to have off-sale liquor is not necessary. She noted that she spoke with an ABC administrator and enforcement officer about the enforcement of the conditions of the application, which said most were unenforceable. She commented that there is no evidence that alcohol is necessary at this place. She spoke strongly against this application. She noted that this is a wine/beer license and would be extremely difficult to monitor. The City established principles and should adhere to them.

Council Member Dowling asked staff whether the City could enforce the conditions of approval. City Attorney O'Toole clarified that the City of Hayward does not have the power or the authority to grant an alcohol permit. What the City Council is doing is placing conditions upon the land use. He maintained that the City could obtain an injunction to prohibit the operation should the conditions be violated.

Michael Freed, resident of Cherryland, spoke on behalf of the approval of the license. As a middle-school teacher, he has worked with youth who are alcoholics, and indicated that Crossroads is not a store at which youth would purchase liquor. He referred Council Members to the Planning Commission process and report.

Henry Villalobos said this is a great opportunity to speak on alcohol abuse. He said alcohol is a drug and a disease. He is against alcohol.

Stephanie Free said she worked with COMMPRE in the past. She was encouraging the Council to make an exception to the 500-foot rule, and spoke in favor of issuing the liquor permit and said she, too, drives from El Cerrito to shop at the store.

Jim Drake asked if the property is owned by the business operator. It was noted that he is the owner of the property. He was told that if the business is sold, the permit and the conditions would apply to a new owner.

Nicolas Terry indicated that this is a testament to how a City works. He said that the business sounds like a great business but it is not going to suffer financially if he does not have the permission to sell wine or liquor.

George Horogh said he was impressed with the City Hall since it was his first visit. He noted that, as a shopper at Crossroads, customers have been asking for complementing liquors since it opened. He commented that there is little demand for anything but high-end wines and beers from other countries.

Hani Haddad, the owner, said he sells food from over 20 countries. Hayward is centrally located and customers come from adjacent communities just to purchase his products. His present shop is twice as large as the one he operated at Foothill. He wanted to satisfy his customers by selling specialty and imported wine and beers. In response to COMMPRE, he noted that the market is



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oriented to specific clients, particularly families. He commented that earlier he made a presentation to members of COMMPRE and Citizens for Responsible Liquor Outlets, an organization, who did not object to his request.

Mayor Cooper closed the public hearing at 10:15 p.m.

Council Member Ward asked about the correspondence received from the Citizens for Responsible Liquor Outlets.

Ms. Pratt indicated that this is a group of citizens who meet in COMMPRE's office and they disagree in this instance.

City Attorney O'Toole commented that the City does not appropriately determine the kinds of wine or beer. The City of Hayward has the jurisdiction of land use decisions. Zoning appropriately is one of the conditions in determining the issuance of the liquor license.

Council Member Jimenez, with Council Member Dowling seconding, moved to deny the appeal and uphold the Planning Commission decision to allow the wine and beer permit.

Council Member Rodriguez apologized to the first speaker for asking whether she had ever been to the Crossroads Market. She said that this is a small enhancement to the merchant.

Council Member Henson indicated that he was concerned that seemingly there would be approval for the license if the Council agrees to allow the permit to stand.

City Attorney O'Toole said there are appropriate land use approvals for the license. In this determination, the Planning Director would follow up with a letter to the ABC regarding the public necessity of the re-zoning.

Council Member Hilson commented on the condition, which states that not more than 49 percent of the gross receipts can be realized from beer and wine sales. He asked whether staff monitors those establishments, which have been conditioned similarly. He was told it becomes a useful tool when there are problems with an establishment. He then discussed the condition of responsible beverage service training within six months, which seemed like a long time. He was told the training is not offered on a very frequent basis.

Council Member Dowling thanked COMMPRE for its vigilance, as well as the Moreau Catholic students for their eloquence. He noted the problems facing residents, including advertisements, refrigerated liquor beverage and long hours. This permit will not allow any of those. He is approving the conditions and would vote to revoke if these conditions are violated. He encouraged the owner.

Mayor Cooper indicated that she could not support this permit. She emphasized her adherence to the ordinance to maintain consistency.

Council Member Henson commented that there are mechanisms for monitoring refrigerated units. He agreed with Mayor Cooper's comments. He felt that this Census Tract was already overburdened with liquor outlets. He noted that the saturation point had been reached.

Council Member Jimenez commended Mr. Haddad. He said this is a man of integrity.

Council Member Dowling commented on the various markets that were turned down by the City Council previously.

City Attorney O'Toole clarified that a "yes" vote authorized the use permit and granted the variance.

It was moved by Council Member Jimenez, seconded by Council Member Dowling, and failed by the following roll call vote to deny the appeal and allow the Crossroads Market to sell wine and beer:

AYES:	Council Members Jimenez, Rodriquez, Dowling
NOES:	Council Member Hilson, Ward, Henson
	MAYOR Cooper
ABSENT:	None
ABSTAINED:	None

Resolution 02-066, "Resolution Approving Applicant's Appeal of the Planning Commission's Approval of Use Permit/Variance Application No. 2002-0025, Concerning a Request to Allow a New Off-Sale Alcoholic Beverage Outlet"

LEGISLATIVE BUSINESS

6. Update on City Hall Repair

Oral staff report submitted by City Manager Armas, dated May 21, 2002, was filed.

City Manager Armas provided an audio-visual chronology of the fire of May 16 at the adjacent construction project that damaged the south side of the City Hall. He described the incident and the response by all of the engine companies to it. He noted that most of the damage to City Hall was from the heat originating from the fire. The most damage was done to windows. He enumerated the repairs to include drywall replacement, exterior repair, and noted that the bulk of the damage was done to decorative architectural material that will need to be replaced. The columns, as well as the gutters on the roof will also need to be replaced. All of the glass has been replaced, as well as the stained stoneware. The landscape has also been damaged and will need to



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be replaced. The total damage is estimated at \$1.25 million dollars. The insurance will cover most of the replacement. The City has a \$25,000 deductible. He noted that the original builder is helping with the repair. Beeline Glass Company of Hayward responded to match the glass in the building. As a precaution, an industrial hygienist was called to monitor the air quality standard, and provided a clean bill of health.

The Olson project lost 18 units, and Olson Development has begun clearing the site. He commented that as a precaution Olson Company has placed security personnel on the site during the construction. It will be complete by the end of this calendar year. He commented that staff and the Olson people would meet next week to discuss how to shorten the time frame.

He then showed pictures of the normal operation of City Hall, and added that this is reflective of what was seen on Monday morning.

He thanked public safety departments, and noted there were no injuries to people. He then acknowledged the "behind the scenes" work people. He introduced and publicly acknowledged Vic Avila, Facilities Manager, who was on scene almost immediately, calling vendors before he arrived.

Vic Avila then echoed his appreciation of Beeline Glass of Hayward.

Mayor Cooper commented that City Hall came through it very much unscathed. This does not destroy Hayward's image. She also thanked the public safety officers and everyone who helped to get the City back to normal business.

Council Member Henson joined in thanking the staff and public safety in their efforts to get back to business. He received word from a family in the residential units regarding their appreciation of the public safety officers who were concerned for their safety. He noted that it is a testament of City Hall that it is structurally an excellent building. He noted that we are on a mission to revitalize and will complete that mission.

Council Member Rodriquez commented on her personal experience on Thursday. She was impressed with the attitude of staff as well as the residents. She was sorry to hear negative comments about the image of Hayward. She then described what a catastrophe is, and noted that this was not.

Council Member Hilson discussed the closeness of the project to City Hall; he discussed others comments regarding the detraction of the project from City Hall. He said agreeing to build the structure was a mistake. He asked the Council to support revisiting the issue.

Mayor Cooper opened the public hearing at 8:57 p.m.

Jason Moreno commented on arson and criminal investigations. He asked anyone in the public who might have information to share it with the Police Department. He spoke against false conjectures and drawing wrong conclusions.

Mayor Cooper closed the public hearing at 8:59 p.m.

COUNCIL REPORTS

Council Member Hilson noted that he was in Sacramento as part of a coalition of local elected members who met with Legislators to insist that the State not raid local funds.

Council Member Dowling added that he too, attended the Sacramento meeting. The coalition members met with Assembly Members Corbett and Dutra, and Senator Figueroa among others, to discuss the impacts of the State Budget cuts, which includes eliminating the booking fee reimbursement and impacting Redevelopment Agency funding.

ADJOURNMENT

Mayor Cooper adjourned at 10:46 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward